

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

JAMES T. BOOTH,

Defendant.

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19-cr-699 (JGK)

MEMORANDUM OPINION &  
ORDER

JOHN G. KOELTL, District Judge:

The defendant, James Booth, was sentenced by this Court principally to a sentence of 42 months' imprisonment pursuant to his plea of guilty to securities fraud in violation of 15 U.S.C. §§ 78j(b) and 78ff. The defendant is scheduled to self-surrender on January 22, 2021. The Bureau of Prisons has not yet designated a facility for the defendant's imprisonment. The defendant now moves, pursuant to 18 U.S.C. § 3582(c)(1)(A)(i), for compassionate release or an order requiring that the defendant serve his sentence in home confinement based on the defendant's medical conditions and the existence of COVID-19. The motion is **denied**.

Because the defendant has not surrendered to a Bureau of Prisons facility, he has not exhausted administrative remedies, which is required for an application for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). See United States v. Konny, 463 F.Supp. 3d 402, 404 (S.D.N.Y. 2020). Moreover, the defendant's request to convert his term of imprisonment into a

term of home incarceration is not a proper request under the compassionate release statute. See id. at 405.

However, it is appropriate to delay the defendant's surrender date to the Bureau of Prisons. A delay may provide useful information about the facility to which the defendant is designated. It will also allow some improvement in the state of the current pandemic. It is clear that the defendant is not a risk of flight or a danger to the community while he is released. The purposes of sentencing, including a sentence that is sufficient but no greater than necessary to reflect the seriousness of the offense, to provide just punishment, and to afford adequate deterrence, will all be satisfied by a sentence that is delayed for a brief period of time. Therefore, the Court will adjourn the defendant's surrender date to May 28, 2021.

#### CONCLUSION

For the reasons stated above, the defendant's application for compassionate release or to transform his sentence into a sentence of home confinement is **denied**. However, the defendant's voluntary surrender date is adjourned to **May 28, 2021**.

**SO ORDERED.**

**Dated: New York, New York  
January 19, 2021**

**/s/ John G. Koeltl**  
**John G. Koeltl**  
**United States District Judge**